

AMENDED IN ASSEMBLY APRIL 28, 2011

AMENDED IN ASSEMBLY MARCH 21, 2011

AMENDED IN ASSEMBLY MARCH 15, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 181

Introduced by Assembly Members Portantino and Beall

(Principal coauthor: Senator Steinberg)

(Coauthors: Assembly Members Ammiano, Blumenfield, Brownley, Carter, Chesbro, Dickinson, Fong, Galgiani, Gordon, Huffman, Ma, Skinner, and Swanson)

(Coauthors: Senators Correa, Evans, Price, and Vargas)

January 24, 2011

An act to amend Section 16164 of, and to add Section 16001.10 to, the Welfare and Institutions Code, relating to foster youth.

LEGISLATIVE COUNSEL'S DIGEST

AB 181, as amended, Portantino. Foster youth: mental health bill of rights.

Existing law provides that, when a child is removed from his or her family by the juvenile court, placement of the child in foster care should secure, as nearly as possible, the custody, care, and discipline equivalent to that which should have been given the child by his or her parents. Existing law provides enumerated rights for children who are placed in foster care. Existing law establishes the Office of the State Foster Care Ombudsperson to disseminate specified information, including the stated rights of foster youth, and to investigate and attempt to resolve complaints made by or on behalf of children placed in foster care, related to their care, placement, or services.

This bill would enumerate rights for foster youth relating to mental health services. The bill would require the office, in consultation with various entities, to develop, no later than July 1, 2012, standardized information explaining the rights specified and to distribute this information to foster youth.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 16001.10 is added to the Welfare and
2 Institutions Code, to read:
3 16001.10. (a) It is the policy of the state that all children in
4 foster care and transition-age foster youth shall have the following
5 rights relating to mental health services:
6 ~~(1) To receive needed mental health services.~~
7 ~~(2) To interview a therapist prior to commencing treatment.~~
8 ~~(3) To discontinue psychotropic medication, as deemed~~
9 ~~appropriate by a physician, if the youth experiences potentially~~
10 ~~dangerous side effects.~~
11 ~~(4) To be presented with mental health options, including, but~~
12 ~~not limited to, holistic or natural approaches, mentoring, peer~~
13 ~~counseling, therapy, and medication.~~
14 ~~(5) To continue services with their therapist or counselor for at~~
15 ~~least one year when their residential placement changes or as long~~
16 ~~as it is in the best interest of the youth, as determined by a court.~~
17 ~~(6) To be evaluated by a medical professional.~~
18 ~~(7) To have mental health services provided outside of the place~~
19 ~~of residence, if the child wishes.~~
20 ~~(8) To be provided with information on how to seek mental~~
21 ~~health services in their county of residence, or to have this~~
22 ~~information provided to the child's caregiver, depending on the~~
23 ~~age of the child.~~
24 ~~(9) To gain access to personal mental health records.~~
25 ~~(10) Consistent with other state laws, to be guaranteed the~~
26 ~~protection of confidentiality when interacting with mental health~~
27 ~~professionals, unless the youth is deemed at risk of harming himself~~
28 ~~or herself or others, and when reporting suspected child abuse to~~
29 ~~the child protection agency.~~

1 ~~(11) To be given age-appropriate information on drug~~
2 ~~interactions if prescribed more than one medication.~~

3 ~~(12) To receive timely mental health services in the county of~~
4 ~~residence and not to be denied services based on the child's county~~
5 ~~of origin.~~

6 ~~(13) To refuse mental health treatment at any time unless~~
7 ~~deemed medically necessary by the court.~~

8 *(1) To receive developmentally appropriate, medically necessary*
9 *mental health screenings, assessments, and services.*

10 *(2) For foster youth, including those six years of age and*
11 *younger, to receive a mental health screening to determine whether*
12 *mental health services are necessary if the placement is at risk*
13 *due to behavioral reasons.*

14 *(3) To be evaluated and treated by a mental health professional*
15 *who is culturally sensitive and qualified to treat individuals of that*
16 *age and symptomology.*

17 *(4) To interview a therapist prior to commencing treatment and,*
18 *for children 10 years of age or younger, to participate with*
19 *caregivers in interviewing therapists before commencing treatment.*
20 *Once treatment commences, the youth, or caregiver if the youth*
21 *is 10 years of age or younger, has the right to request a new*
22 *therapist at any time upon the availability of a new provider.*

23 *(5) To continue services with the same licensed mental health*
24 *provider, if that provider is available, for at least one year after*
25 *a change in placement or following reunification, consistent with*
26 *the mental health treatment plan and best interests of the child or*
27 *nonminor.*

28 *(6) To refuse mental health treatment at any time unless the*
29 *individual poses an immediate danger to himself or herself or*
30 *others.*

31 *(7) If 12 years of age or older, to initiate and consent to*
32 *outpatient mental health treatment or counseling services.*

33 *(8) To be presented with all available services and mental health*
34 *services, including, but not limited to, behavioral, holistic, or*
35 *natural approaches, mentoring, peer counseling, therapy, and*
36 *medication.*

37 *(9) To access available mental health services in the*
38 *least-restrictive community environment, including services*
39 *provided outside of the place of residence, if the youth wishes.*

1 (10) To be provided with information on how to seek mental
2 health services in the county of residence. For children 10 years
3 of age or younger, caregivers shall be provided with information
4 on how to seek mental health services in the child's county of
5 residence.

6 (11) To receive timely mental health services in the county of
7 residence and not to be denied services based on the individual's
8 county of origin, unless the youth is receiving services in the county
9 of origin to preserve desired continuity.

10 (12) To be given developmentally appropriate information on
11 drug interactions if prescribed more than one medication.

12 (13) To receive developmentally appropriate information on
13 potential short- or long-term side effects of prescribed psychotropic
14 medications and to receive available information related to the
15 efficacy of the prescribed psychotropic medication for individuals
16 of a similar age group. Youth and caregivers shall also be notified
17 if the psychotropic medication has not been tested on youth of that
18 age group.

19 (14) To refuse or discontinue the administration of psychotropic
20 medications.

21 (15) Consistent with existing law, to be guaranteed the
22 protection of privacy and confidentiality when interacting with
23 mental health professionals, unless the youth is deemed a danger
24 to himself or herself or others, and when reporting suspected child
25 abuse to the child protection agency.

26 (16) To gain access to personal mental health records as
27 permitted by law and to have the confidentiality of those mental
28 health records protected as provided under existing law.

29 (17) To be provided with copies of mental health records at no
30 cost if unable to pay.

31 (b) The Office of the State Foster Care Ombudsperson, in
32 consultation with the State Department of Mental Health, the State
33 Department of Social Services, the State Department of Health
34 Care Services, foster youth advocacy and support groups,
35 representatives of county child welfare agencies, and groups
36 representing children, families, foster parents, and children's
37 facilities, and other interested parties, shall develop, no later than
38 July 1, 2012, standardized information explaining the rights
39 specified in this section. The information shall be presented in an

1 age-appropriate manner and shall reflect any relevant licensing
2 requirements and medical information laws.

3 SEC. 2. Section 16164 of the Welfare and Institutions Code is
4 amended to read:

5 16164. (a) The Office of the State Foster Care Ombudsperson
6 shall do all of the following:

7 (1) Disseminate information on the rights of children and youth
8 in foster care and the services provided by the office. The rights
9 of children and youths in foster care are listed in Sections 16001.9
10 and 16001.10. The information shall include notification that
11 conversations with the office may not be confidential.

12 (2) Investigate and attempt to resolve complaints made by or
13 on behalf of children placed in foster care, related to their care,
14 placement, or services.

15 (3) Decide, in its discretion, whether to investigate a complaint,
16 or refer complaints to another agency for investigation.

17 (4) Upon rendering a decision to investigate a complaint from
18 a complainant, notify the complainant of the intention to
19 investigate. If the office declines to investigate a complaint or
20 continue an investigation, the office shall notify the complainant
21 of the reason for the action of the office.

22 (5) Update the complainant on the progress of the investigation
23 and notify the complainant of the final outcome.

24 (6) Document the number, source, origin, location, and nature
25 of complaints.

26 (7) (A) Compile and make available to the Legislature all data
27 collected over the course of the year, including, but not limited to,
28 the number of contacts to the toll-free telephone number, the
29 number of complaints made, including the type and source of those
30 complaints, the number of investigations performed by the office,
31 the trends and issues that arose in the course of investigating
32 complaints, the number of referrals made, and the number of
33 pending complaints.

34 (B) Present this compiled data, on an annual basis, at appropriate
35 child welfare conferences, forums, and other events, as determined
36 by the department, that may include presentations to, but are not
37 limited to, representatives of the Legislature, the County Welfare
38 Directors Association, child welfare organizations, children's
39 advocacy groups, consumer and service provider organizations,
40 and other interested parties.

1 (C) It is the intent of the Legislature that representatives of the
2 organizations described in subparagraph (B) consider this data in
3 the development of any recommendations offered toward
4 improving the child welfare system.

5 (D) The compiled data shall be posted so that it is available to
6 the public on the existing Internet Web site of the State Foster Care
7 Ombudsperson.

8 (8) Have access to any record of a state or local agency that is
9 necessary to carry out his or her responsibilities. Representatives
10 of the office may meet or communicate with any foster child in
11 his or her placement or elsewhere.

12 (b) The office may establish, in consultation with a committee
13 of interested individuals, regional or local foster care ombudsperson
14 offices for the purposes of expediting investigations and resolving
15 complaints, subject to appropriations in the annual Budget Act.

16 (c) (1) The office, in consultation with the California Welfare
17 Directors Association, Chief Probation Officers of California,
18 foster youth advocate and support groups, groups representing
19 children, families, foster parents, children's facilities, and other
20 interested parties, shall develop, no later than July 1, 2002,
21 standardized information explaining the rights specified in Section
22 16001.9. The information shall be developed in an age-appropriate
23 manner, and shall reflect any relevant licensing requirements with
24 respect to foster care providers' responsibilities to adequately
25 supervise children in care.

26 (2) The office, counties, foster care providers, and others may
27 use the information developed in paragraph (1) in carrying out
28 their responsibilities to inform foster children and youth of their
29 rights pursuant to Section 1530.91 of the Health and Safety Code,
30 Sections 27 and 16501.1, and this section.